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Before the
Federal Communications Commission
Washington, D.C. 20554

APR 30 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of the Telecommunications)
Act of 1996)
)
Telemessaging, Electronic Publishing, and)
Alarm Monitoring Services)

CC Docket No. 96-152

**OPPOSITION OF BELL ATLANTIC¹ AND NYNEX² TO
PETITION FOR RECONSIDERATION AND CLARIFICATION**

The Commission should deny AT&T's attempt to impose more stringent requirements on Bell operating company ("BOC") provision of electronic publishing than Congress intended.³ AT&T's principal argument is that the Commission should interpret the phrase "operated independently" in Section 274(b) of the Act to allow it to impose additional, more stringent requirements than those listed in that section. The Commission

¹ The Bell Atlantic telephone companies ("Bell Atlantic") are Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; and Bell Atlantic-West Virginia, Inc.

² The NYNEX Telephone Companies ("NYNEX") are New York Telephone Company and New England Telephone and Telegraph Company.

³ Petition for Reconsideration and Clarification (filed Mar. 24, 1997) ("Petition").

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already addressed and denied AT&T's arguments,⁴ however, and AT&T has presented no new arguments here that justify revisiting the issue.

In particular, AT&T merely repeats its previously rejected argument⁵ that the Commission should apply to Section 274 its conclusion that use of a similar phrase in Section 272(b)(1) allows the Commission to impose additional restrictions, despite the different placement of the language in the two sections. But AT&T has it exactly backwards; it is in the interpretation of Section 272 where the Commission got it wrong.

There is no significance in the fact that the "operate independently" language in Section 272(b)(1) is in the first item in a list of restrictions rather than in the introductory clause; in both cases it is merely explanatory rather than authorizing additional restriction. As BellSouth has shown in its pending reconsideration petition, therefore, the Commission should interpret Sections 274 and 272 consistently by eliminating the additional requirements it imposed on the BOCs' Section 272 affiliates.⁶

Even if the Commission erroneously were to deny BellSouth's reconsideration request, however, it should reaffirm its finding that Congress gave it no authority to add to the list of nine separation requirements listed in Section 274(b). As

⁴ *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 97-35, ¶ 65 (rel. Feb. 7, 1997) ("This interpretation of the 'operated independently' requirement in section 274(b) is not inconsistent with our determination in the *Non-Accounting Safeguards Order* that the Section 272(b)(1) 'operate independently' provision imposes requirements beyond those contained in subsections 272(b)(2)-(5).").

⁵ *Id.* at ¶¶ 62-63.

⁶ BellSouth, Petition for Reconsideration, CC Docket No. 96-149 at 4-7 (filed Feb. 20, 1997).

AT&T itself has pointed out, the substantive requirements in Section 274(b)(1)-(9) “impose significantly more stringent restrictions” than those in Section 272(2)-(5).⁷ If Congress had intended to give the Commission discretion to impose additional requirements on BOC electronic publishing operations, there would have been no reason for Congress to adopt the exhaustive list of restrictions in Section 274. As Bell Atlantic pointed out in responding to a similar argument made during initial comments, if Congress had intended the extensive list of restrictions to have been less than exhaustive, it was fully capable of saying so.⁸

⁷ AT&T Corp., Petition for Reconsideration and Clarification, CC Docket No. 96-149 at 6 (filed Feb. 20, 1997).

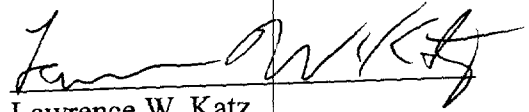
⁸ Reply Comments of Bell Atlantic at 5 (filed Sept. 20, 1996).

Accordingly, the Commission should deny AT&T's Petition.

Respectfully Submitted,

**The Bell Atlantic Telephone
Companies**

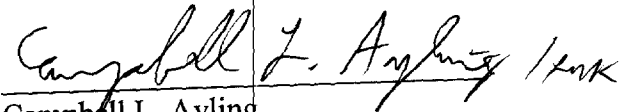
By their Attorney



Lawrence W. Katz

Edward D. Young, III
Michael E. Glover
Of Counsel

1320 North Court House Road
8th Floor
Arlington, Virginia 22201
(703) 974-4862



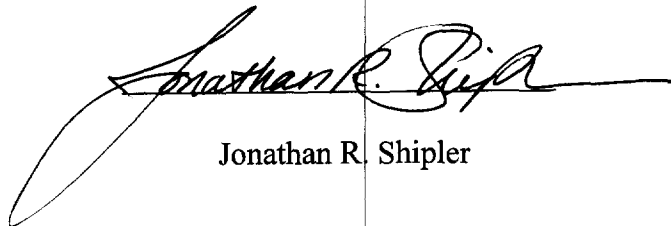
Campbell L. Ayling
1095 Avenue of the Americas
Room 3725
New York, New York 10036
(212) 395-8326

Attorney for the NYNEX
Telephone Companies

April 30, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of April, 1997, a copy of the foregoing
"Opposition" was sent by first class U.S. mail to the parties on the attached list.

A handwritten signature in black ink, appearing to read "Jonathan R. Shipler", with a long, sweeping horizontal line extending to the right.

Jonathan R. Shipler

* BY HAND

Ava B. Kleinman
AT&T Corp.
295 North Maple Avenue
Room 3252J1
Basking Ridge, NJ 07920

ITS, Inc.*
1919 M Street, NW
Room 246
Washington, DC 20554